

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

|                      |   |                     |
|----------------------|---|---------------------|
| SHAWNELLIAS BURGESS, | ) |                     |
|                      | ) |                     |
| Plaintiff            | ) |                     |
|                      | ) | No. 3:11-0927       |
| v.                   | ) | Judge Trauger/Brown |
|                      | ) | <b>Jury Demand</b>  |
| AFFILIATED COMPUTER  | ) |                     |
| SERVICES, INC.,      | ) |                     |
|                      | ) |                     |
| Defendant            | ) |                     |

**TO: THE HONORABLE ALETA A. TRAUGER**

**REPORT AND RECOMMENDATION**

The Plaintiff in this matter has filed a motion for voluntarily dismissal with prejudice pursuant to Fed. R. Civ. P. 41(a)(2) (Docket Entry 35). For the reasons stated below, the Magistrate Judge recommends that this motion be GRANTED.

**DISCUSSION**

The Plaintiff originally filed his complaint in General Sessions Court for Davidson County. The Defendant in the case, rather than leaving the matter there, paid the filing fee and removed the case to Federal Court (Docket Entry 1). The Plaintiff then, acting *pro se*, filed an amended complaint to provide more detail than was required in General Sessions Court (Docket Entry 12). The Defendant then filed a motion to dismiss (Docket Entry 14) and the Plaintiff filed a motion to further amend his complaint (Docket Entry 16). These two motions produced a series of responses, replies and surreplies (Docket Entries 19, 20, 25 and

26). The Magistrate Judge issued a report and recommendation recommending that the motion to amend be granted and the motion to dismiss be denied (Docket Entry 30), which was subsequently approved by Judge Trauger (Docket Entry 31). The Plaintiff's second amended complaint was thus filed and answered (Docket Entries 32 and 34).

On March 12, 2012, the Plaintiff filed a motion to voluntarily dismiss with prejudice (Docket Entry 35).

Before the ink had even dried on this motion the Plaintiff filed a motion to ascertain the status of this motion (Docket Entry 36).<sup>1</sup>

The ink on the present motion to dismiss with prejudice is now dry and the Defendant has not responded in opposition to the motion. In the absence of any opposition or requests for costs it is clear that the Court should allow the dismissal of this action with prejudice.

#### **RECOMMENDATION**

For the reasons stated above, the Magistrate Judge recommends that this matter be dismissed with prejudiced with each side to bear their own costs.

Under Rule 72(b) of the Federal Rules of Civil Procedure, any party has **14 days** from receipt of this report and recommendation in which to file any written objections to this

---

<sup>1</sup>The Plaintiff apparently thinks that his is the only pending in Federal Court as he has a tendency to file a motion to ascertain the status of his case at every opportunity (see Docket Entry 27).

recommendation with the District Court. Any party opposing said objections shall have **14 days** from receipt of any objections filed in this report and recommendation in which to file any responses to said objections. Failure to file specific objections within **14 days** of receipt of this report and recommendation can constitute a waiver of further appeal of this recommendation. *Thomas v. Arn*, 474 U.S. 140 106 S. Ct. 466, 88 L.Ed.2d 435 (1985), *Reh'g denied*, 474 U.S. 1111 (1986).

**ENTERED** this 10<sup>th</sup> day of April, 2012.

/s/ Joe B. Brown  
JOE B. BROWN  
United States Magistrate Judge